## REMARKS

In response to the Office Action dated May 1, 2008, Applicants respectfully request reconsideration based on the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Claims 1, 6, 9, 14-15, 18-20, 22 and 27 were rejected under 35 U.S.C. § 103 as being unpatentable over Marshall in view of Petajan and Paterson. This rejection is traversed for the following reasons.

Claim 1 recites, *inter alia,* "a speaker for transmitting sound to the user, the speaker positioned in proximity to the ear of the user; a communication path from the computer to the speaker; wherein the communication device for communicating the output of the microphone to the computer and communication path from the computer to the speaker are used in combination to perform conventional telephony wherein the computer communicates with telephony interfaces." Applicants submit that none of Marshall, Petajan and Paterson teaches the elements of claim 1 nor is there sufficient motivation to combine the references as proposed by the Examiner.

As noted by the Examiner, neither Marshall nor Petajan teaches using equipment for telephony. The Examiner relies on Paterson for teaching a headset used for telephony. Paterson teaches a wireless telephone headset for that uses an RF transmitter 108 and an RF receiver 109 to send and receive RF audio signals. The signals sent and received are in TDD/TDMA format used in telephony (column 4, lines 62-67). Paterson does not use a computer as part of the communication path. Patterson uses an RF transmitter 108 and an RF receiver 109. Thus, Paterson cannot teach "wherein the communication device for communicating the output of the microphone to the computer and communication path from the computer to the speaker are used in combination to perform conventional telephony wherein the computer communicates with telephony interfaces." Therefore, even if Marshall, Petajan and Paterson are combined, the elements of claim 1 do not result.

The Examiner states that the difference between the claimed subject matter and the prior art is "the substitution of Paterson's wireless phone for Marshall's computer." The Examiner concludes that this substitution is obvious. This allegedly obvious substitution

does not result in the elements of claim 1. Claim 1 recites both a computer and telephony elements, in combination. If the computer of Marshall is replaced with the telephony interfaces of Paterson, the features of claim 1 do not result as the computer elements have been replaced.

Further, there is insufficient motivation to combine Paterson with Marshall as proposed by the Examiner. Marshall is directed to speech therapy system to aid users in correct speech defects, learning new languages, etc. Users of the Marshall system are presented with standard speech templates so that the user may alter their speech to more accurately match the template. There is no suggestion in Marshall that such a system should be used to conduct telephony communications. In fact, Marshall lacks a speaker which is critical to the implementation of telephony communications. The Examiner's statement on the motivation to combine the references only states that the technology of Paterson exists, but provides no rationale of why one of ordinary skill in the art would combine Paterson and Marshall. Under the PTO guidelines for obviousness in view of the *KSR* decision, there must be some predictable result in the proposed modification of the references. It is not clear how the proposed modification to Marshall can be predictable when Marshall makes no suggestion to performing telephony and lacks critical components (e.g., a speaker) needed for telephony.

For at least the above reasons, claim 1 is patentable over Marshall in view of Petajan and Paterson. Claims 6, 9, 14-15, 18-20, 22 and 27 variously depend from claim 1 and are patentable over Marshall in view of Petajan and Paterson for at least the reasons advanced with reference to claim 1.

Claims 2-5 were rejected under 35 U.S.C. § 103 as being unpatentable over Marshall in view of Petajan, Paterson and Cofer. Claims 7, 29 and 30 were rejected under 35 U.S.C. § 103 as being unpatentable over Marshall in view of Petajan, Paterson and Lahr. Claim 21 was rejected under 35 U.S.C. § 103 as being unpatentable over Marshall in view of Petajan, Paterson and Bridgelall. Claim 26 was rejected under 35 U.S.C. § 103 as being unpatentable over Marshall in view of Petajan, Paterson and Lewis. Claims 10-13 were rejected under 35 U.S.C. § 103 as being unpatentable over Marshall in view of Petajan, Paterson and Jones II.

Claim 16 was rejected under 35 U.S.C. § 103 as being unpatentable over Marshall in view of Petajan, Paterson and Tomioka. Claim 17 was rejected under 35 U.S.C. § 103 as being unpatentable over Marshall in view of Petajan, Paterson and Rubis. Claim 31 was rejected under 35 U.S.C. § 103 as being unpatentable over Marshall in view of Petajan, Paterson and Schneider. Claim 8 was rejected under 35 U.S.C. § 103 as being unpatentable over Marshall in view of Petajan, Paterson and Harman. Claim 28 was rejected under 35 U.S.C. § 103 as being unpatentable over Marshall in view of Petajan, Paterson and Neal.

With respect to these rejections, none of the relied upon secondary references teach or suggest the use of the apparatus in a telephony application as recited in claim 1. Accordingly, none of the secondary references cure the deficiencies of Marshall in view of Petajan and Paterson discussed above with reference to claim 1. As these claims all depend from claim 1 and are patentable for at least the reasons advanced with reference to claim 1.

In view of the foregoing remarks, Applicants submit that the above-identified application is now in condition for allowance. Early notification to this effect is respectfully requested.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 50-0510.

Respectfully submitted,

By: _____

David A. Fox
Registration No. 38,807
CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford, CT 06103-3207
Telephone (860) 286-2929
Facsimile (860) 286-0115
Customer No. 48915

Date: June 10, 2008